

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

Ellis Smith,	)	
	)	
Plaintiff,	)	Civil Action No. 6:22-cv-4694-TMC
	)	
vs.	)	
	)	
Peterbilt of Knoxville, Inc.,	)	<b>ORDER</b>
	)	
	)	
Defendant.	)	
	)	

On November 1, 2022, Plaintiff Ellis Smith (“Smith”), by and through counsel, brought the original complaint against Defendant in the Greenville County Court of Common Pleas. On December 28, 2022, Defendant removed the action to this court. (ECF No. 1). In federal court, Plaintiff is proceeding *pro se*. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.), this matter was referred to a magistrate judge for pretrial handling. Now before the court is the magistrate judge's Report and Recommendation (“Report”), recommending that this court dismiss this action without prejudice, without leave to amend, and without issuance and service of process pursuant to Rule 41 of the Federal Rules of Civil Procedure. (ECF No. 27 at 4). The Report was mailed to Plaintiff at the address he provided the court, (ECF No. 29), and has not been returned as undeliverable. Therefore, Plaintiff is presumed to have received the Report. Plaintiff was advised of his right to file specific objections to the Report. (ECF No. 27 at 5). However, Plaintiff has filed no objections, and the time to do so has now run. Accordingly, this matter is ripe for review.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Wimmer v. Cook*, 774 F.2d 68, 72 (4th Cir. 1985)

(quoting *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *Greenspan v. Brothers Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee’s note).

Having carefully reviewed the Report and finding no clear error, the court agrees with, and wholly adopts, the magistrate judge’s findings and recommendations in the Report (ECF No.27), which is incorporated herein by reference. Accordingly, Plaintiff’s action is **DISMISSED without prejudice, without leave to amend, and without issuance and service of process.**

**IT IS SO ORDERED.**

s/Timothy M. Cain  
United States District Judge

April 14, 2023  
Anderson, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.